

REMARKS

This Response addresses that Office Action dated August 1, 2003, in which claims 5-7, 9, 12, 13, 16, 21, 22 and 25 were objected to and claims 1-4, 8, 10, 11, 14, 15, 17-20, 23 and 24 were rejected.

Objected to claims 5, 9, 12, 13, 16, 21, 22 and 25 have been canceled and rewritten in independent form as new claims 27-34 respectively, and are now allowable. There have been no amendments to these claims which might be considered to have narrowed or amended the claims or to have narrowed or amended the claims for a reason related to patentability. Claim 6 has been amended to overcome the Section 112 rejection; but the claim has not been narrowed thereby. Claims 6 and 7 remain allowable as they depend from the now independent claim 27 (previously objected to claim 5). Claim 14 has been amended to correct a typographical error.

Claim 1 has been amended to include the limitation that the body of intervertebral disc prosthesis is made of only resilient material (i.e., the only solid material of the body is resilient, as opposed to non-solid materials such as blood anti-coagulant and other treatments which need not be resilient), and that this material is not bone material. This amended claim 1 is argued to clearly distinguish over the cited references, all of which include some hard, non-resilient components and/or some bone material of the body of the prosthesis, and to be patentably unobvious over the known art and combinations thereof. The limitations added to this Claim 1 are only directed to the invention of Claim 1 and its dependent claims, and not to any of the other claims.

Claim 20 has been amended to include the limitation that only a portion of the damaged intervertebral disc is excised. This clearly distinguishes over all cited references, all of which teach a complete/total scraping-out and removal of the entire disc, even if it is not all damaged. This amended Claim 20 is argued to be patentable over all known art and all combinations thereof.

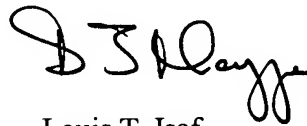
Claim 26 has been added and expresses that the resilient biocompatible material is a ribbon. It is believed, based on the allowance of claim 7 and claim 22, that this feature is seen to be patentable, and Applicant argues that it is a patentable claim.

Dependent Claims 2-4, 8, 10, 11, 14, 15, 17-20, 23 and 24 are allowable either because they are dependent from an allowable base claim, or because they include additional limitations which further distinguish over the references. Applicant traverses the rejections and stated grounds for rejection of these claims and Applicant reserves the right to defend in later prosecution and in courts of law all claims herein on these and other grounds, including without limitation presenting challenges to any and all grounds for rejections stated in the Office Action.

CONCLUSION

Applicant respectfully requests favorable consideration of all claims 1-4, 6-8, 10, 11, 14, 15, 17-20, 23, 24 and 26-34 and an early indication of allowance. Applicant welcomes a telephone call to the undersigned attorney if such a call might assist with resolving issues and moving this case to allowance.

Respectfully submitted,



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APPENDIX